

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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DAVID BURNS.

Plaintiffs,

Case No. 3:18-cv-00086-MMD-CLB

v.

TASHEENA SANDOVAL, *et al.*

Defendants.

ORDER

11 Plaintiff David Burns is an incarcerated person in the custody of the Nevada
12 Department of Correction who has brought this civil rights action. Before the Court is the
13 Report and Recommendation (“R&R”) of United States Magistrate Judge Carla L. Baldwin
14 (ECF No. 84), recommending that the Court grant Plaintiff’s Motion for Leave to File a
15 Third Amended Complaint (ECF Nos. 64), file Plaintiff’s Third Amended Complaint (ECF
16 No. 64-1), dismiss Plaintiff’s Count III equal protection claim, and deny both Plaintiff’s
17 Motion for Leave to File a Second Amended Complaint (ECF No. 51) and Second Request
18 for Leave to File a Third Amended Complaint (ECF No. 65) as moot. The parties had until
19 April 3, 2020 to file an objection. To date, no objection has been filed. For that reason, and
20 because the Court agrees with Judge Baldwin, the Court will adopt the R&R.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); see also *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”); Fed. R. Civ. P. 72, Advisory //

1 Committee Notes (1983) (providing that the court "need only satisfy itself that there is no
2 clear error on the face of the record in order to accept the recommendation").

3 While the parties have failed to timely object to the R&R, the Court has nevertheless
4 conducted a *de novo* review to determine whether to adopt the R&R. Having reviewed the
5 R&R (ECF No. 84) and underlying records (ECF Nos. 51, 64, 64-1, 65), the Court agrees
6 with Judge Baldwin and adopts the R&R in full.

7 It is therefore ordered that the Report and Recommendation of Magistrate Judge
8 Carla Baldwin (ECF No. 84) is accepted and adopted in full.

9 It is further ordered that Plaintiff's Motion for Leave to File a Third Amended
10 Complaint (ECF No. 64) is granted.

11 The Clerk is directed to file Plaintiff's Third Amended Complaint (ECF No. 64-1).
12 Plaintiff's Count III equal protection claim is dismissed. Plaintiff's Count I failure to protect
13 claim will proceed against Defendants Sandoval, Clark, Gittere, Byrne, Underwood,
14 Hammel, Romero, and Hollingsworth. Plaintiff's Count II retaliation claim will also proceed
15 against Defendants Sandoval, Clark, Gittere, Byrne, Underwood, Hammel, Romero,
16 Hollingsworth, and Travis.

17 It is further ordered that Plaintiff's Motion for Leave to File a Second Amended
18 Complaint (ECF No. 51) and Second Request for Leave to File a Third Amended
19 Complaint (ECF No. 65) are denied as moot.

20 DATED THIS 6th day of April 2020.

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23 MIRANDA M. DU
24 CHIEF UNITED STATES DISTRICT JUDGE
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